REMARKS

The claims presently before the Examiner are new claims 21 – 27. Support for these claims can be found on pages 10 and 11 of the specification. All previous claims have now been cancelled. Old claim 14 has been rewritten in claim 21 to now recite the necessary connective relationships between the various components of the apparatus. New claims 26 and 27 are essentially old claim 17.

It is believed that no additional fee is required as the claims presently before the Examiner are fewer than the number of claims originally paid for.

This communication is in response to an Office Action mailed on January 3, 2005. The Office Action set a shortened statutory period for response at three months. Since this communication is being forwarded to the Patent Office prior to the expiration of that initial period, it is believed that no extension fees are required.

Applicant acknowledges the Examiner's comment regarding the Information Disclosure Statement supplied on August 21, 2002. At this time, the Applicant is attempting to locate the subject reference and will supply it in a separate supplemental IDS once it has been obtained.

REJECTION OF CLAIMS

Claim Rejection – 35 U.S.C. §112

Claims 14 and 17 have been rejected by the Examiner under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. New claim 21 now recites an apparatus for applying a polymer to a substrate. It now recites structural/functional relationship between the various components of the apparatus. More specifically, between the three-way valve injection wedge and a means to hold and pump a fill material.

For the same reasons, it is believed that new claims 26 and 27 have overcome the indefiniteness rejection of old claim 17 because these claims now recite structural relationship between the hoppers and the melting means and the injection wedge.

It is respectfully submitted that the new claims are now complete as they recite essential structural cooperative relationships of the various elements. The recited structural cooperative relationships are now recited for the structures connecting the polymer melt means to the casting drum and the hoppers to the injection wedge.

Claim rejection - 35 U.S.C. §103

The Examiner has also rejected claims 14 and 17 under 35 U.S.C. §103(a) as being unpatentable over Parkhideh (U.S. Patent No. 5,761,886) in view of AAPA (Applicants' Admitted Prior Art) or Majkrzak (U.S. Patent No. 4,919,308). This rejection is respectfully traversed.

The Applicants thank the Examiner for pointing out that for purposes of considering patentability, under 35 U.S.C. §103(a), the Examiner has correctly presumed that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made. Applicants are aware of their obligation under 37 C.F.R. §1.56 to point out the Inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the Examiner to consider the possible application of 35 U.S.C. §103(c) and potential 35 U.S.C. §102(e), (f), or (g) prior art under 35 U.S.C. §103(a).

Parkhideh discloses method and apparatus for forming capsules which utilize dies which are independently movable. The Applicants agree that this is close prior art, however, Parkhideh at column 4, lines 64-67 recites "...the path from the source is simply a supply line to the pump and the delivery line from a pump to the wedge. Eliminated are the shut off valve, distribution plate, and medicine return hose." Thus, Parkhideh teaches away from the use of a valve, let alone, a valved injection wedge.

Parkhideh also goes to great lengths to point out the various shortcomings of the previously used apparatuses. He recites disadvantages in setting the timing between the dies and the wedge, the use of plunger type pumps whose operation was linked to the other moving elements, including the gelatin drums and the dies, and the like. For all of the teachings found in Parkhideh, he neither suggests nor discloses the use of a melt on demand device for the polymer nor the use of a valved wedge to quickly, easily, and economically switch between the active fill and a placebo fill during the set up phase of the machines. It is Applicants' position that Parkhideh actually teaches away from the presently claimed invention, that is primarily an apparatus containing an injection wedge having a valve to switch from active to placebo fill.

The Majkrzak reference discloses a hopper type hot melt dispenser for use in liquefying and dispensing drum or pail quantities of hot melt adhesive. This patent has nothing to do with encapsulation technology and it is believed by the Applicants not to be combinable with Parkhideh. The Examiner should look at the International and U.S. classes for these two very different patents and quickly realize that this is not similar art. Thus, there is no suggestion that the teachings of Parkhideh be combined with Majkrzak to arrive at the presently claimed invention. Any combination of these two references still fails to suggest or disclose the valved injection wedge of the present invention.

Further, it is quite apparent that the Examiner has engaged in 20/20 hindsight and utilized the presently claimed invention as a blueprint to map out the combination of Parkhideh and Majkrzak.

As to the AAPA, at page 20, lines 16-18, it simply says that "...while three-way valves are well-known, the novel aspect of this invention is its application to rotary die encapsulation processes." This is not an admission that it was known to utilize three-way valves in an injection wedge for a rotary die encapsulation machine. The AAPA, in combination with Parkhideh and Majkrzak, still falls far short of suggesting or disclosing the presently claimed apparatus that requires a melt on demand system, a pump for the molten polymer, a casting drum, the movable dies, and at least two holding and pumping means for placement of a placebo and the active while at the same time utilizing an injection wedge that incorporates a three-way valve. In light of the new claims and these remarks, it is respectfully submitted that the Examiner's rejection under 35 U.S.C. §103 by combining Parkhideh, AAPA and Majkrzak has been overcome. Withdrawal of this rejection is respectfully solicited.

The rejection of claim 17 under 35 U.S.C. §103(a) as being unpatentable over Parkhideh in view of AAPA or Majkrzak, and further in view of Chasman (U.S. Patent No. 4,567,714) is traversed. Chasman discloses an apparatus and method for forming sealed pharmaceutical capsules containing precisely compacted charges of a powdered material. The powdered material is initially compacted in a punch roll to form a compacted slug. This is done to reduce the possibility of free dust or powdered material being deposited or finding its way onto the capsule forming material. The Examiner cites to column 30, lines 76 to column 31, line 4, and suggests that Chasman discloses an apparatus having an additional hopper and an additional set of fill and return lines for feeding a different fill material. The Applicants respectfully dispute the Examiner's position. The actual language referred to recites "...further in this regard, the wedged member 290 may be used either alone (i.e. if only liquid fill material is to be encapsulated) or in combination with the fill powder apparatus (i.e. if fill powder is to be encapsulated, either with or without a liquid fill material)". That language, in no way, suggests the addition of a second hopper and a second set of fill and return lines in an encapsulation device. Again, the Examiner's attempt to combine these references still falls short of rendering obvious the presently claimed apparatus.

The additional references of Herridge et al. (U.S. Patent No. 5,660,922) and Doesburg et al. (U.S. Patent No 5,520,958) are not even remotely related to the present invention and add no additional strength to the Examiner's failed argument of obviousness.